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Counsel for Plaintiff and the proposed classes

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Timothy Moore, <i>on behalf of himself</i>) Case No.
<i>and others similarly situated,</i>)
)
Plaintiff,) CLASS ACTION COMPLAINT
)
vs.) JURY TRIAL DEMANDED
)
AdMediary LLC, and Tort Experts)
LLC,)
)
Defendants.)
)
)

1 Timothy Moore (“Plaintiff”), on behalf of himself and all others similarly
2 situated, alleges as follows:

3 **Nature of the Action**

4 1. Plaintiff, individually and on behalf of all others similarly situated,
5 brings this class action against AdMediary LLC (“AdMediary”), and Tort Experts
6 LLC (“Tort Experts”) (together, “Defendants”) under the Telephone Consumer
7 Protection Act (“TCPA”).

8 2. In response to a mass tort multi-district litigation matter involving toxic
9 exposure surrounding Marine Corps Base Camp Lejeune, numerous entities appear
10 to be engaging in mass telemarketing and robocalling campaigns to broad swathes
11 of the United States, in apparent disregard of the TCPA and legal solicitation rules
12 and laws.

13 3. Specifically, third party lead generation firms engage in mass-
14 solicitation efforts to identify qualifying “leads” and sell those leads to interested
15 third parties, such as mass tort law firms prosecuting Camp Lejeune claims.

16 4. These mass solicitations are being conducted with total disregard to the
17 recipients’ status on the National Do-Not-Call Registry (“DNC Registry”), as well
18 as the recipients’ ability to submit a non-fraudulent claim involving Camp Lejeune,
19 all while obfuscating the identity of the sender.

20 5. As a result, upon information and good faith belief, Defendants
21 routinely violate 47 U.S.C. § 227(c)(5) and 47 C.F.R. § 64.1200(a)(2) by delivering
22 more than one advertisement or marketing text message to residential or cellular
23 telephone numbers registered with the DNC Registry without the prior express
24 invitation or permission required by the TCPA.

25 6. Additionally, upon information and good faith belief, Defendants
26 routinely violate 47 U.S.C. § 227(c)(5) and 47 C.F.R. §§ 64.1200(d)(6) by delivering
27 more than one advertisement or telemarketing message to residential or cellular
28 telephone numbers while failing to identify “the name of the individual caller, the

1 name of the person or entity on whose behalf the call is being made, and a telephone
2 number or address at which the person or entity may be contacted.”

3 **Parties**

4 7. Plaintiff is, and has been at all times relevant to this action, the regular
5 and sole user of his cellular telephone number—(662) 385-XXXX.

6 8. Plaintiff uses his cellular telephone as his personal residential telephone
7 number.

8 9. Plaintiff is a natural person who at all relevant times resided in
9 Greenwood, Mississippi.

10 10. AdMediary is a California limited liability company that is
11 headquartered in Valencia, California.

12 11. AdMediary is an advertising and lead generation firm that, among other
13 things, touts its offerings of “Pay Per Call” Camp Lejeune leads, as well as additional
14 paid legal offers tied to “Lawsuit Winning – Camp Lejeune.”¹

15 12. Tort Experts is a Wyoming-based limited liability company that is
16 headquartered in Sheridan, Wyoming.

17 13. Tort Experts offers “Performance-Based Mass Tort Marketing” to
18 generate leads for various mass tort cases.²

19 14. In particular, Tort Experts advertises the availability of its advertising
20 services for Camp Lejeune claims.³

21 **Jurisdiction and Venue**

22 15. This Court has subject matter jurisdiction under 47 U.S.C. § 227(c)(5),
23 and 28 U.S.C. § 1331.

24
25 ¹ <http://offersuite.admediary.com/> (last visited May 1, 2023).

26 ² <https://tortexperts.com/> (last visited May 1, 2023).

27 ³ *See, e.g.*, <https://www.instagram.com/p/CrlgEVzo9pK/?hl=en> (last visited
28 May 1, 2023).

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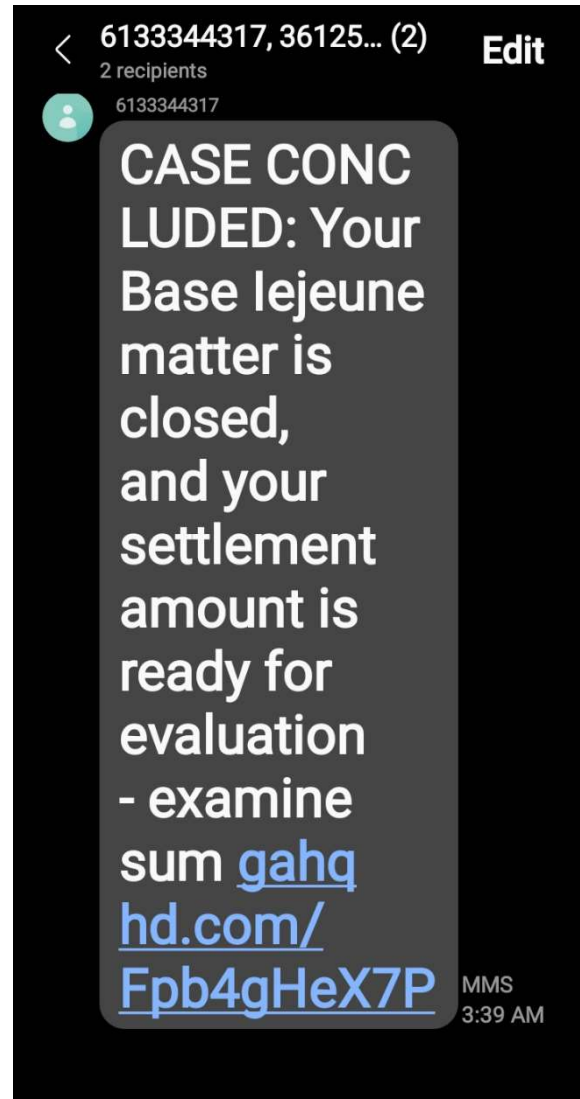
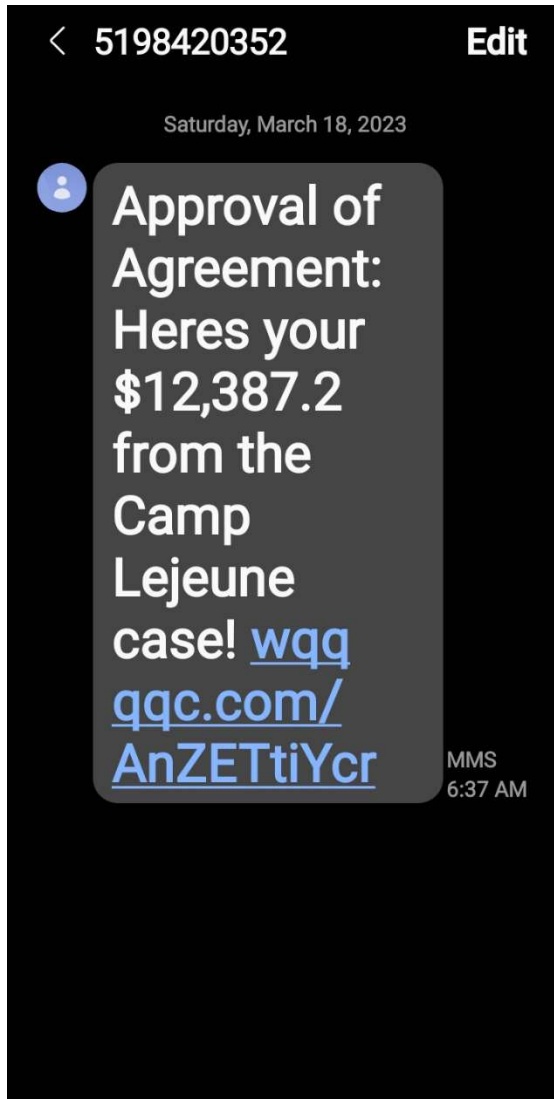
17. In particular, AdMediary directed its text messages to Plaintiff's
telephone from this district.

6 Factual Allegations

18. In 2003, the Federal Communications Commission (“FCC”) ruled that cellular telephone numbers that are placed on the DNC Registry are presumed to be residential. *In Re Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 18 F.C.C. Rcd. 14014, 14039 (2003).

11 19. Plaintiff registered his cellular telephone number with the DNC
12 Registry in or around August 2018.

20. Starting in 2022 and continuing through the present, Plaintiff began receiving text messages on his cellular telephone from a variety of different, constantly rotating telephone numbers, including the following:



20 21. Plaintiff did not recognize the sender of these text messages.

21 22. Plaintiff did not previously file any lawsuits involving Camp Lejeune,
22 or any other type of grievance that would entitle him to recover a settlement amount.

23 23. Plaintiff is not, and was not, interested in submitting a claim based on
24 exposure to toxins at Camp Lejeune.

25 24. Plaintiff has never lived at, worked in, or visited Camp Lejeune, and
26 Plaintiff has not ever inquired about any entitlement to settlement proceeds based on
27 any exposure to toxins at Camp Lejeune.

28

25. Plaintiff estimates that he has received dozens of similar text messages touting eligibility to submit a claim or receive settlement funds from Camp Lejeune.

26. The links in the subject text messages identified in ¶ 20 direct users to two websites: Lawsuit-winning.com, and camplejeuneclaimshelp.com.

27. Although Lawsuit-winning.com hides the legal identity of its owner(s) on its website, the Terms of Use direct users to contact the owner of the website at “21781 Ventura Blvd #10043, Woodland Hills, CA 91364, or call us at 516.362.3623.”⁴

28. That address and phone number are both associated with AdMediary.com, which is, in turn, run by AdMediary.

29. Moreover, AdMediary identifies Lawsuit-winning.com as one of its advertising assets.⁵

30. Similarly, camplejeuneclaimshelp.com hides the legal identity of its owner(s) on its website, but its Terms of Use direct users to contact the owner of the website at “Total Injury Help: 30 N Gould St Ste N Sheridan, WY 82801.”

31. That address is associated with Total Injury Help, and LGNB LLC, a now-defunct Wyoming corporation with the same addresses and registered agents (in Wyoming and New Jersey) and business practices as Tort Experts.

32. Plaintiff did not give Defendants prior express consent or prior express written consent to send text messages to his cellular telephone number.

33. Defendants sent the text messages at issue for non-emergency purposes.

34. Upon information and good faith belief, Defendants sent the text messages at issue voluntarily.

⁴ <https://lawsuit-winning.com/terms.php> (last visited May 1, 2023).

⁵ <http://offersuite.admediary.com/> (last visited May 1, 2023).

Sender Identification Class:⁶

All persons and entities throughout the United States (1) to whom AdMediary LLC, or Tort Experts LLC, delivered, or caused to be delivered, more than one text message within a 12-month period, promoting AdMediary LLC's, Tort Experts LLC's, or their business partners' goods or services, (2) where the subject text messages did not state the name of the individual caller, the name of AdMediary LLC, or Tort Experts LLC, and a telephone number or address at which AdMediary LLC, or Tort Experts LLC, may be contacted, (3) within four years preceding the date of this complaint through the date of class certification.

41. Excluded from the Classes are Defendants, their officers and directors, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entities in which Defendants have or had a controlling interest.

42. Upon information and belief, the members of the Classes are so numerous that joinder of all of them is impracticable.

43. The exact number of members of the Classes are unknown to Plaintiff at this time, and can be determined only through appropriate discovery.

44. The members of the Classes are ascertainable because the Classes are defined by reference to objective criteria.

45. In addition, the members of the Classes are identifiable in that, upon information and belief, their telephone numbers, names, and addresses can be identified in business records maintained by Defendants, and by third parties, including members of the Classes.

46. Plaintiff's claims are typical of the claims of the members of the Classes.

⁶ The "Federal Do-Not-Call Registry Class" and the "Sender Identification Class" are collectively referred to as the "Classes."

1 47. As they did for all members of the Federal Do-Not-Call Registry Class,
2 Defendants delivered solicitation text messages to Plaintiff's telephone number
3 more than thirty days after Plaintiff registered his telephone number with the DNC
4 Registry, absent prior express written consent.

5 48. As they did for all members of the Sender Identification Class,
6 Defendants delivered solicitation text messages to Plaintiff's telephone number
7 where the subject text messages did not state the name of the individual caller, the
8 name of either AdMediary LLC, or Tort Experts LLC, and a telephone number or
9 address at which AdMediary LLC, or Tort Experts LLC may be contacted.

10 49. Plaintiff's claims, and the claims of the members of the Classes,
11 originate from the same conduct, practice, and procedure on the part of Defendants.

12 50. Plaintiff's claims are based on the same theories as are the claims of the
13 members of the Classes.

14 51. Plaintiff suffered the same injuries as the members of the Classes.

15 52. Plaintiff will fairly and adequately protect the interests of the members
16 of the Classes.

17 53. Plaintiff's interests in this matter are not directly or irrevocably
18 antagonistic to the interests of the members of the Classes.

19 54. Plaintiff will vigorously pursue the claims of the members of the
20 Classes.

21 55. Plaintiff has retained counsel experienced and competent in class action
22 litigation.

23 56. Plaintiff's counsel will vigorously pursue this matter.

24 57. Plaintiff's counsel will assert, protect, and otherwise represent the
25 members of the Classes.

26 58. The questions of law and fact common to the members of the Classes
27 predominate over questions that may affect individual members of the Classes.

28 59. Issues of law and fact common to all members of the Classes include:

- a. Defendants' conduct, pattern, and practice as it pertains to delivering advertisement and telemarketing text messages;
- b. For the Federal Do-Not-Call Registry Class, Defendants' practice of delivering text messages, for solicitation purposes, to telephone numbers already registered on the DNC Registry for more than thirty days without obtaining prior express written consent;
- c. For the Sender Identification Class, Defendants' practice of delivering solicitation text messages to Plaintiff's telephone number where the subject text messages did not state the name of the individual caller, the name of either AdMediary LLC or Tort Experts LLC, and a telephone number or address at which AdMediary LLC or Tort Experts LLC may be contacted;
- d. Defendants' violations of the TCPA; and
- e. The availability of statutory penalties.

60. A class action is superior to all other available methods for the fair and efficient adjudication of this matter.

61. If brought and prosecuted individually, the claims of the members of the Classes would require proof of the same material and substantive facts.

62. The pursuit of separate actions by individual members of the Classes would, as a practical matter, be dispositive of the interests of other members of the Classes, and could substantially impair or impede their ability to protect their interests.

63. The pursuit of separate actions by individual members of the Classes could create a risk of inconsistent or varying adjudications, which might establish incompatible standards of conduct for Defendants.

64. These varying adjudications and incompatible standards of conduct, in connection with presentation of the same essential facts, proof, and legal theories,

1 could also create and allow the existence of inconsistent and incompatible rights
2 within the Classes.

3 65. The damages suffered by the individual members of the Classes may
4 be relatively small, thus, the expense and burden to litigate each of their claims
5 individually make it difficult for the members of the Classes to redress the wrongs
6 done to them.

7 66. The pursuit of Plaintiff's claims, and the claims of the members of the
8 Classes, in one forum will achieve efficiency and promote judicial economy.

9 67. There will be no extraordinary difficulty in the management of this
10 action as a class action.

11 68. Defendants acted or refused to act on grounds generally applicable to
12 the members of the Classes, making final declaratory or injunctive relief appropriate.

13 **Causes of Action**

14 **Count I:**

15 **Violation of 47 U.S.C. § 227(c)(5)**

16 **On behalf of the Federal Do-Not-Call Registry Class**

17 69. Plaintiff repeats and re-alleges each and every factual allegation
18 contained in paragraphs 1-68.

19 70. A text message is a "call" as defined by the TCPA. *See, e.g., Satterfield*
20 *v. Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009).

21 71. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c),
22 provides that "[n]o person or entity shall initiate any telephone solicitation" to "[a]
23 residential telephone subscriber who has registered his or her telephone number on
24 the national do-not-call registry of persons who do not wish to receive telephone
25 solicitations that is maintained by the federal government."

26 72. Section 64.1200(e) provides that §§ 64.1200(c) and (d) "are applicable
27 to any person or entity making telephone solicitations or telemarketing calls to
28 wireless telephone numbers."

73. Any “person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may” may bring a private action based on a violation of those regulations, which were promulgated to protect telephone subscribers’ privacy rights to avoid receiving telephone solicitations to which they object. 47 U.S.C. § 227(c).

74. Defendants violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated, telephone solicitations to telephone subscribers such as Plaintiff and the Federal Do-Not-Call Registry Class members who registered their respective cellular or residential telephone numbers with the DNC Registry, which is a listing of persons who do not wish to receive telephone solicitations that is maintained by the federal government.

75. Defendants violated 47 U.S.C. § 227(c)(5) because they delivered, or caused to be delivered, to Plaintiff and members of the Federal Do-Not-Call Registry Class, more than one solicitation call or text message in a 12-month period in violation of 47 C.F.R. § 64.1200.

76. As a result of Defendants’ violations of 47 U.S.C. § 227(c)(5) and 47 C.F.R. § 64.1200, Plaintiff, and the members of the Federal Do-Not-Call Registry Class, are entitled to damages in an amount to be proven at trial.

Count II

Violation of 47 U.S.C. § 227(c)(5)

On behalf of the Sender Identification Class

77. Plaintiff repeats and re-alleges each and every factual allegation contained in paragraphs 1-68.

78. A text message is a “call” as defined by the TCPA. *See, e.g., Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 954 (9th Cir. 2009).

79. The TCPA’s implementing regulation, 47 C.F.R. § 64.1200(d), provides in relevant part that “[a] person or entity making a call for telemarketing

1 purposes must provide the called party with the name of the individual caller, the
2 name of the person or entity on whose behalf the call is being made, and a telephone
3 number or address at which the person or entity may be contacted.” *Id.* at §
4 64.1200(d)(4).

5 80. Section 64.1200(e) provides that §§ 64.1200(c) and (d) “are applicable
6 to any person or entity making telephone solicitations or telemarketing calls to
7 wireless telephone numbers.”

8 81. Any “person who has received more than one telephone call within any
9 12-month period by or on behalf of the same entity in violation of the regulations
10 prescribed under this subsection may” may bring a private action based on a
11 violation of those regulations, which were promulgated to protect telephone
12 subscribers’ privacy rights to avoid receiving telephone solicitations to which they
13 object. 47 U.S.C. § 227(c).

14 82. Defendants violated 47 C.F.R. § 64.1200(d)(4) by initiating, or causing
15 to be initiated, telephone solicitations to telephone subscribers such as Plaintiff and
16 the Sender Identification Class members while failing to “provide the called party
17 with the name of the individual caller, the name of the person or entity on whose
18 behalf the call is being made, and a telephone number or address at which the person
19 or entity may be contacted.”

20 83. Defendants therefore violated 47 U.S.C. § 227(c)(5) because they
21 delivered, or caused to be delivered, to Plaintiff and members of the Sender
22 Identification Class, more than one solicitation call or text message in a 12-month
23 period in violation of 47 C.F.R. § 64.1200(d)(4).

24 84. As a result of Defendants’ violations of 47 U.S.C. § 227(c)(5) and 47
25 C.F.R. § 64.1200(d)(4), Plaintiff, and the members of the Sender Identification
26 Class, are entitled to damages in an amount to be proven at trial.

27 **Prayer for Relief**
28

1 **WHEREFORE**, Plaintiff respectfully requests relief and judgment as
2 follows:

3 A. Certifying the Classes and appointing Plaintiff and his counsel to
4 represent the Classes;

5 B. Adjudging and declaring that Defendants violated 47 U.S.C. §
6 227(c)(5);

7 C. Awarding Plaintiff and the members of the Classes damages under 47
8 U.S.C. § 227(c)(5)(B);

9 D. Awarding Plaintiff and the members of the Classes treble damages
10 under 47 U.S.C. § 227(c)(5)(C);

11 E. Awarding Plaintiff and the members of the Classes reasonable
12 attorneys' fees, costs, and expenses under Rule 23 of the Federal Rules of Civil
13 Procedure;

14 F. Awarding Plaintiff and the members of the Classes reasonable
15 attorneys' fees and costs of suit, including expert witness fees; and

16 G. Awarding other and further relief as the Court may deem just and
17 proper.

18 **TRIAL BY JURY**

19 Plaintiff is entitled to and hereby demands a trial by jury.

20
21 Dated: May 2, 2023

By:

/s/ Todd M. Friedman

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